

## STATEMENT OF FACTS

Your affiant, Kevin Toups, is a Task Force Officer assigned to the Denver Federal Bureau of Investigation ("FBI") Field Office, Colorado Springs Resident Agency. Currently, I am a tasked with investigating criminal activity in and around the U.S. Capitol grounds on January 6, 2021. As a Task Force Officer with the FBI, I am authorized by law or by a Government agency to engage in or supervise the prevention, detention, investigation, or prosecution of a violation of Federal criminal laws.

The U.S. Capitol is secured 24 hours a day by U.S. Capitol Police. Restrictions around the U.S. Capitol include permanent and temporary security barriers and posts manned by U.S. Capitol Police. Only authorized people with appropriate identification were allowed access inside the U.S. Capitol. On January 6, 2021, the exterior plaza of the U.S. Capitol was also closed to members of the public.

On January 6, 2021, a joint session of the United States Congress convened at the United States Capitol, which is located at First Street, SE, in Washington, D.C. During the joint session, elected members of the United States House of Representatives and the United States Senate were meeting in separate chambers of the United States Capitol to certify the vote count of the Electoral College of the 2020 Presidential Election, which had taken place on November 3, 2020. The joint session began at approximately 1:00 p.m. Shortly thereafter, by approximately 1:30 p.m., the House and Senate adjourned to separate chambers to resolve a particular objection. Vice President Mike Pence was present and presiding, first in the joint session, and then in the Senate chamber.

As the proceedings continued in both the House and the Senate, and with Vice President Mike Pence present and presiding over the Senate, a large crowd gathered outside the U.S. Capitol. As noted above, temporary and permanent barricades were in place around the exterior of the U.S. Capitol building, and U.S. Capitol Police were present and attempting to keep the crowd away from the Capitol building and the proceedings underway inside.

At such time, the certification proceedings were still underway and the exterior doors and windows of the U.S. Capitol were locked or otherwise secured. Members of the U.S. Capitol Police attempted to maintain order and keep the crowd from entering the Capitol; however, shortly around 2:00 p.m., individuals in the crowd forced entry into the U.S. Capitol, including by breaking windows and by assaulting members of the U.S. Capitol Police, as others in the crowd encouraged and assisted those acts.

Shortly thereafter, at approximately 2:20 p.m. members of the United States House of Representatives and United States Senate, including the President of the Senate, Vice President Mike Pence, were instructed to—and did—evacuate the chambers. Accordingly, the joint session of the United States Congress was effectively suspended until shortly after 8:00 p.m. Vice President Pence remained in the United States Capitol from the time he was evacuated from the Senate Chamber until the sessions resumed.

During national news coverage of the aforementioned events, video footage which appeared to be captured on mobile devices of persons present on the scene depicted evidence of

scores of individuals inside the U.S. Capitol building without authority to be there, in violation of Federal laws. Photographs and videos of several of these persons were disseminated via social media and other open source online platforms.

Earlier this day, at approximately 1:00 p.m., a crowd of violent rioters assembled on the West Front of the U.S. Capitol. U.S. Capitol Police formed a line of bike racks extending from the north end of the West Front to the south end to act as a barrier against the crowd. Officers were standing watch behind this line and fending off repeated attempts by the rioters to pull on the bike racks, either with their hands or with ropes and straps.

Open-source video from outside of the Capitol Building on January 6, 2021 shows a white male wearing a “Guns Don’t Kill People, Clintons Do” sweater and a black helmet with “S1” in white on the side, as depicted below:



The FBI located a Telegram account with the following profile photo, appearing to depict the same individual in the same sweater at the Washington Monument:



The telephone number associated with this Telegram account was a phone number ending -5161.<sup>1</sup> Records from Verizon confirm the phone number ending -5161 is subscribed to Thomas Patrick HAMNER's wife at the same address as HAMNER's former home address on his Colorado driver's license. A law enforcement database also confirmed phone number ending -5161 is associated with HAMNER. Additionally, phone number ending -5161 is the listed phone number for a business in Colorado Springs, Colorado, which according to the Better Business Bureau, shares the same address as HAMNER's former home and is owned in principle by "Mr. Tom Hamner."

On July 22, 2021, Witness-1, who has had personal contact with HAMNER, confirmed the individual in videos, including the pictures depicted below, is Thomas Patrick HAMNER. Your affiant has compared the individual in the pictures and videos referenced below to known photographs of HAMNER, and the appearance and features of the individual in the pictures and videos below are consistent with Thomas Patrick HAMNER. One such known photograph is a customer comment HAMNER left with respect to a restaurant in Colorado Springs, as depicted below:



Tom Hamner

Great food, close by, glad I found them

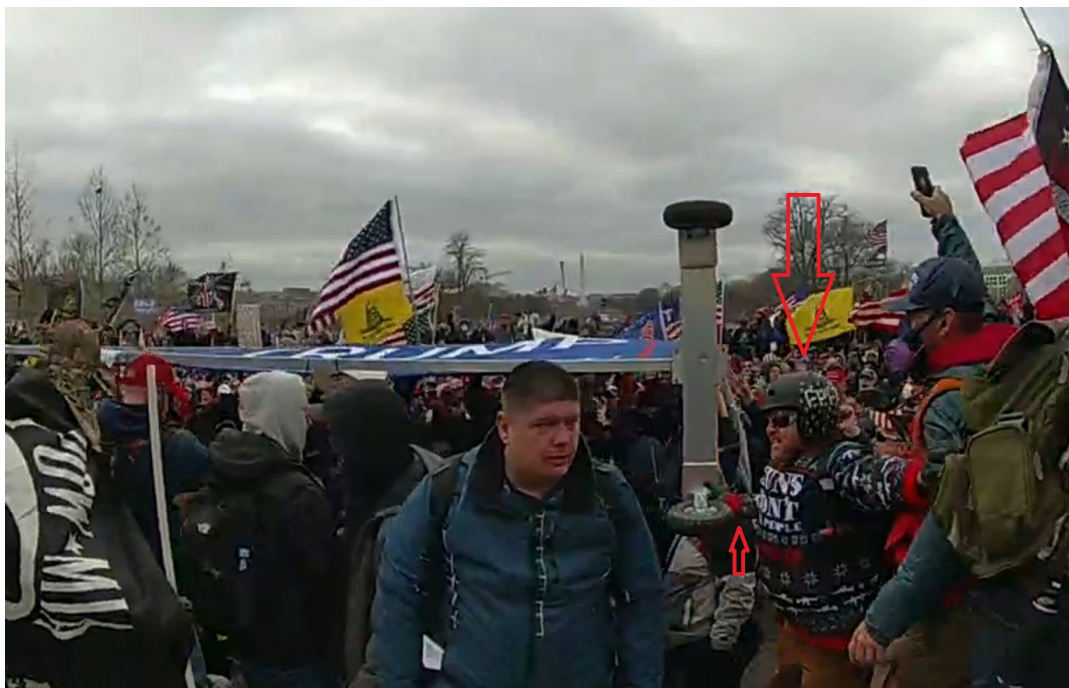


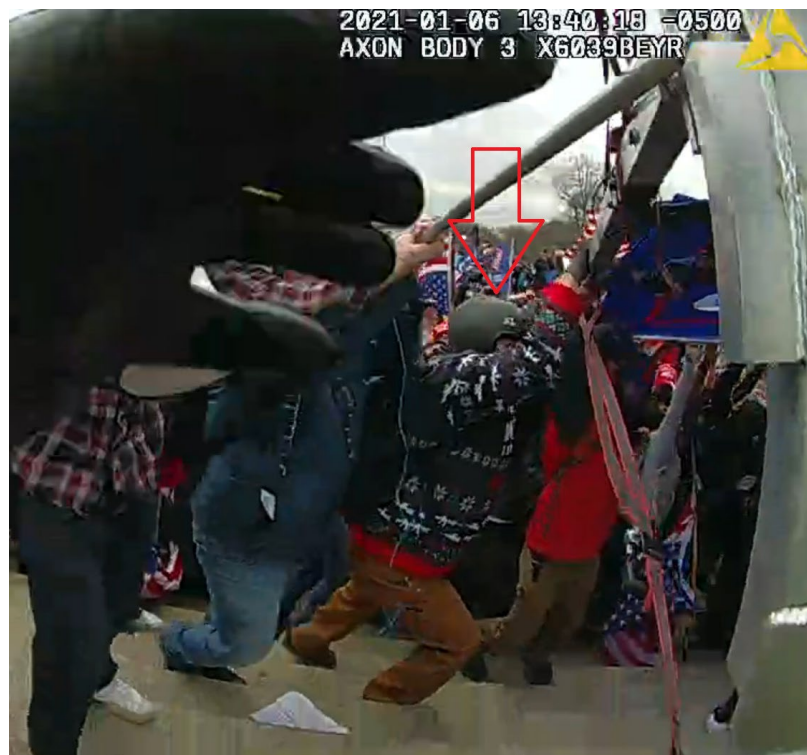
<sup>1</sup> Due to the public nature of this filing, only the last four digits of the phone number is used.

Open-source video from January 6, 2021, depicts HAMNER fighting with officers from the U.S. Capitol Police and D.C. Metropolitan Police, who were assisting U.S. Capitol Police at the time, over a police barricade on the West Plaza, as depicted below:



At approximately 1:40 pm, as officers continued to fend off repeated attempts by rioters to breach the police line and assault the officers, the rioters moved a large metal "TRUMP" sign. HAMNER is seen pushing the sign into the defensive line of officers, as depicted below:







Based on the foregoing, your affiant submits that there is probable cause to believe that Thomas Patrick HAMNER violated 18 U.S.C. §§ 111(a)(1) and (b), which makes it a crime to, with a deadly or dangerous weapon, forcibly assault, resist, oppose, impede, intimidate or interfere with a Federal law enforcement officer as designated in Section 1114 of Title 18, while engaged in or on account of the performance of official duties and to aid and abet others. For purposes of Section 1114 of Title 18, an officer or employee includes any person assisting such an officer or employee in the performance of such duties or on account of that assistance.

Your affiant submits there is also probable cause to believe that HAMNER violated 18 U.S.C. § 231(a)(3), which makes it unlawful to commit or attempt to commit any act to obstruct, impede, or interfere with any fireman or law enforcement officer lawfully engaged in the lawful performance of his official duties incident to and during the commission of a civil disorder which in any way or degree obstructs, delays, or adversely affects commerce or the movement of any article or commodity in commerce or the conduct or performance of any federally protected

function. For purposes of Section 231 of Title 18, a federally protected function means any function, operation or action carried out under the laws of the United States, by any department, agency or instrumentality of the United States or by an officer or employee thereof. This includes the Joint Session of Congress where the Senate and House count Electoral College votes.

Additionally, your affiant submits that there is probable cause to believe that HAMNER violated 18 U.S.C. § 1752(a)(1) and (4), which makes it a crime to (1) knowingly enter or remain in any restricted building or grounds without lawful authority to do; and (4) knowingly engages in any act of physical violence against any person or property in any restricted building or grounds or attempts or conspires to do so. For purposes of Section 1752 of Title 18, a “restricted building” includes a posted, cordoned off, or otherwise restricted area of a building or grounds where the President or other person protected by the Secret Service, including the Vice President, is or will be temporarily visiting; or any building or grounds so restricted in conjunction with an event designated as a special event of national significance.



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Kevin Toups  
Task Force Officer  
Federal Bureau of Investigation

Attested to by the applicant in accordance with the requirements of Fed. R. Crim. P. 4.1  
by telephone, this 1st day of November 2021.

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ZIA M. FARUQUI  
UNITED STATES MAGISTRATE JUDGE